

Battle Creek City Planning Commission

Staff report for the January 25, 2012 Meeting

To: Planning Commissioners

From: Christine M. Hilton, AICP, Planning Supervisor
Planning and Community Development Department

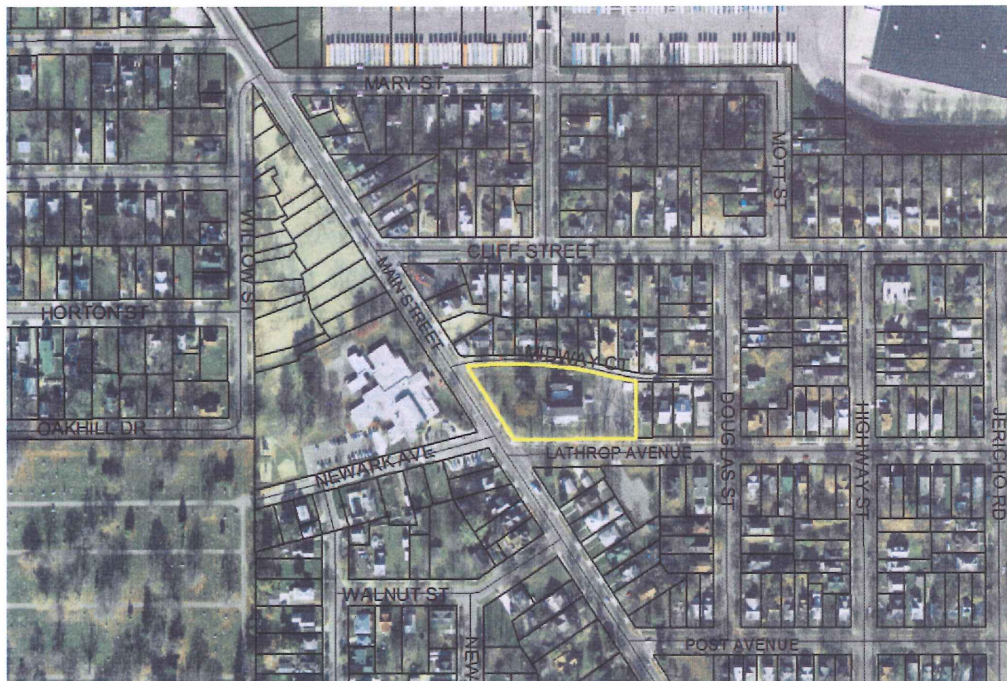
Subject: Petition S-01-12, a Special Use Permit request for a funeral home at 319 Main Street
Parcel #0780-00-034-0

Summary

A petition from Jerome and Shenise Whitley, requesting a Special Use Permit to allow the use and occupancy of 319 Main Street as a funeral home as permitted under the Planning and Zoning Code, Chapter 1290, Section 1290.01(b)(24)

Background/Property Information

The subject site is located on the northeast corner of Main Street and Lathrop Avenue, approximately two-thirds of a mile from the downtown, in the Post neighborhood. The parcel is 1.38 acres in size with 215' of frontage along Main Street and 510' of frontage along Lathrop.



Very few City records exist on this structure, but it has been used as a church for at least the last fifty years, and in all likelihood was constructed as such. The property has been owned and occupied until recently by the First Pentecostal Church, which last month received approval of a special use permit to relocate to Beckley Road.

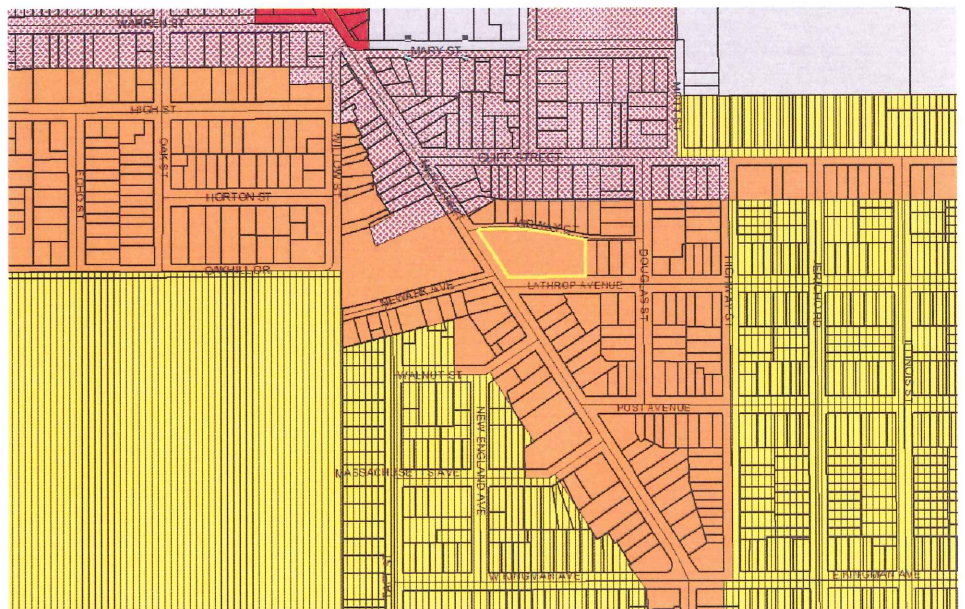
A previously adjacent structure, appearing to have been constructed originally for residential purposes, has since been attached by an addition to the larger church structure. There is a parking lot behind the structure which contains approximately eighteen parking spaces, and another parking lot containing twenty-one spaces located across Lathrop Street was approved for a special use permit in 2007.



Surrounding Land Uses / Zoning

The subject property as well as surrounding properties are zoned R-2 Two Family Residential, and is situated centrally in a residential area located between the downtown commercial area and commercial area in Emmett Township.

The property is surrounded with residential uses consistent with the zoning districts in which they are placed. Franklin Elementary School is located across Main Street, and beyond that Oak Hill Cemetery.



Proposed Scope of Project

The applicants of this petition currently operate a funeral home facility in Kalamazoo and an office in Battle Creek. They are seeking a special use permit to open a full service funeral home at the subject parcel. Services to be provided are typical of a funeral home, and outlined on their website <http://whitleymemorialfuneralhome.com>.

Their hours of operation will be from 9am to 5pm, with occasional visitation in the evening hours (not to exceed 8pm). Biohazard storage will be located inside the main structure and in accordance with State regulations. In the future, they plan to use the residential structure as dwelling quarters as provided for by the zoning ordinance. There are no changes to the exterior of the structure proposed at this time.

Funeral establishments require a license through the State of Michigan, and are subject to various State laws concerning their management and operation, including waste disposal. Additionally, each licensed funeral establishment is required to have a manager who is employed by the establishment on a full time basis and available for funeral related purposes at all times. This manager is required be a mortuary science licensee which requires extensive training and education.

The proposed use of this property as a funeral home is similar to the previous use as a church, which was an asset to this neighborhood. Both are generally open during the daytime for office hours, with variable hours of operation for services that will occur during daytime and early evening.

Applicable Ordinance Provisions

Funeral homes are permitted by right in the O1 Office District, and C1, C2, C3, and C4 Commercial Districts. In other zoning districts throughout the City they are permitted by special use permit as provided for in City of Battle Creek Zoning Ordinance, Chapter 1290 Special Land Uses, specifically 1290.01(b)(24): *"Funeral homes, including a chapel and one residential unit for the funeral director or caretaker, when located on a major street as shown on the Major Streets Plan and on a lot or parcel of not tell than one acre;"*

As the subject property is located on a major street and is over one acre in size it is eligible for consideration for a special use permit for a funeral home.

As background, the zoning ordinance was amended in 1986 to allow funeral homes as a special use. This amendment was initiated based on the opinion that funeral homes can comfortably fit into any zoning district, even single family residential, as they are relatively low-intensity uses which require a high standard of maintenance. One such local example is the Bachman-Hebble Funeral Home, located on N. Bedford Road in Urbandale.

Public Hearing and Notice Requirements

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shoppers Guide on Thursday, January 5, 2012 and notices of the public hearing were also sent by regular mail on January 3, 2012 to 108 owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has received one phone call; the caller had some concerns about the request but did not submit a formal objection.

Neighborhood Outreach

The petitioner attended the January 5, 2012 meeting of the Post-Franklin Neighborhood Planning Commission, and their request for a special use permit has been endorsed by that group. A copy of their approval letter is included with this staff report.

Basis For Determination

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.
- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code.

Analysis and Recommendation

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan in that the approval of this special use permit will allow the expansion of a business in the community (pg. 4-1) while utilizing a vacant and historic building (pg. 4-12). Funeral homes are relatively low-intensity uses which require a high standard of maintenance (pg. 4-24). The Neighborhood Preservation Strategies (pg. 5-14) specify this neighborhood as in transition, and the use of this property as requested will continue to serve as an anchor in the neighborhood.
- (b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood as the proposed use is similar to the nature of the previous and historic use of the property, a light intensity use due to the nature of the activities that will take place which will not be detriment to surrounding properties.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses as the proposed use is generally passive in nature, with variable hours of operation that generally occur during the daytime and early evening.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as an existing vacant structure will become occupied.
- (e) The use will be adequately served by essential public facilities and services in that public utilities already exist and no additional needs are required for this use.
- (f) There will be no City expenses associated with the maintenance and improvements to the building, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services. The approval of a funeral home at this location will allow a previously exempt property to be placed on the tax rolls.
- (g) Because of the nature of the use, and relevant State regulations concerning such a use, there will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance. Additionally, the proposed use is subject to stringent State regulations that will ensure it remains an asset to the neighborhood.

Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-01-12 that would allow an funeral home as discussed herein, on Parcel #0780-00-034-0 with the following conditions:

- a. All staging of vehicles must occur on private property unless otherwise allowed by permitted on-street parking areas regulated by the City.
- b. The on-site parking lot must be striped prior to its use. A parking lot striping plan for the on-site parking lot shall be submitted to the Planning Department for review and approval.
- c. All necessary approvals and any required permits shall be obtained from the appropriate agencies, including but not limited to Department of Public Works and Inspections Department prior to Certificate of Occupancy.
- d. The approval of the special use permit is based upon the contents of the submitted application and this staff report. Any future proposed change must be reviewed with the Planning Department to ensure consistency with the approved special use permit, and may be subject to approval of a revision of the special use permit by the Planning Commission and City Commission.
- e. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.
- f. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:

- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

Attachments

The following information is attached and made part of this Staff report.

1. Special Use Permit petition Form and Supplemental Information (Petition #S-01-12)

PETITION FOR A SPECIAL USE PERMIT

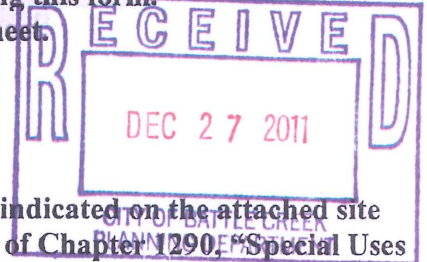


City of Battle Creek, Michigan

Department of Planning and Community Development

Petition No. S-01-12

Please read instruction on reverse before completing this form.
If additional space is required, attach a separate sheet.



The City Commission of the City of Battle Creek, Michigan

Honorable Mayor and City Commissioners:

I / We, the undersigned owner(s) of the property described below and indicated on the attached site plan, do hereby petition for a Special Use Permit under the provisions of Chapter 1290, "Special Uses and Land Development", of the Planning and Zoning Code of the City of Battle Creek, to permit this property to be used exclusively as indicated below.

Legal Description of Property: 0780-00-034-0 and 2760-00-007-0
319 Main Street Battle Creek, Michigan 49014

Present Use of Property:
Church

Proposed Use of Property:
Funeral Home

Reasons why petitioner feels that a Special Use Permit should be granted:

Whitley Memorial Funeral Home, Inc. has served the community of Battle Creek for the past four years. We desire a full service facility so that we can better service our client families. Our number one goal is to provide the "service that people expect and need" when the loss of a loved one occurs. This vision is merely our attempt to provide the best service and sensitivity. A Special Use Permit would allow our vision to become reality.

Present Zoning Classification: R2 District.

Property Owner(s) _____ or Agent _____ (Check one)

Jerome Whitley Jr.
Name

330 N. Westnedge Ave. Kalamazoo, MI. 49007
Address

(269) 488-2401
Telephone

(269) 488-2403
Fax

Signature [Signature]

Shenise Whitley
Name

330 N. Westnedge Ave. Kalamazoo, MI. 49007
Address

(269) 488-2401
Telephone

(269) 488-2403
Fax

Signature [Signature]

FOR OFFICE USE ONLY

Date Petition Received: 12-27-11
Petition Fee Received: \$200.00
Received By: CHRISTINE HILTON

Planning Commission Recommendation:
Approve _____ Deny _____ Date _____
City Commission Action:
Approve _____ Deny _____ Date _____
Resolution No. _____

INSTRUCTIONS FOR FILING A PETITION FOR A SPECIAL USE PERMIT

This petition must be accompanied by the following:

1. Payment of a non-refundable **\$600.00** Petition Fee.
(Make Checks Payable to: City of Battle Creek)
2. An affidavit authorizing an agent to act on behalf of the owner if the petitioner is not the owner.
3. One copy of a site plan, drawn to scale.

The site plan should show all of the following:

- A. Location of all buildings and structures on the property;
- B. Location and number of parking spaces provided;
- C. Proposals for dealing with drainage on the property;
- D. Location of all utilities;
- E. Anticipated traffic circulation patterns; and
- F. Design techniques to be employed to protect adjoining property owners including landscape plantings, berms, grading, fences and other methods of screening.

Consideration should also be given to the storage of refuse and the provision of other amenities and facilities for the development (recreational areas, sidewalks, etc.)

When completing this form, please supply the most complete information possible relating to the existing and proposed use of the property. For example, if the property is residential, please give the number of units; if it is commercial or industrial, give the type of business or industry.

While not required, it would be advisable that the petitioner consults with a member of the Planning Department staff prior to submitting this petition. If assistance is required, please call: (269) 966-3320

It is always advisable that you contact the most immediately affected adjacent property owners prior to submitting this application. You may be able to minimize concerns that would otherwise be raised at a Public Hearing.

The completed petition form and the petition fee should be forwarded to: Planning & Community Development / 77 E. Michigan Avenue, Ste 204 / Battle Creek, MI 49017

***** **IMPORTANT NOTICE** *****

INASMUCH AS WE MUST PUBLISH A NOTICE OF THE PUBLIC HEARING ON THIS SPECIAL USE PERMIT, AND MAIL NOTICES TO ALL PROPERTY OWNERS WITHIN 300 FEET OF THE PROPERTY; THIS PETITION SHOULD BE SUBMITTED PRIOR TO THE PETITION DEADLINE DATE FOR THE MONTH AT WHICH YOU WANT THE PETITION TO BE CONSIDERED. THE PLANNING COMMISSION MEETS ON THE FOURTH WEDNESDAY OF EVERY MONTH, (4:00 P.M., AT 10 N. DIVISION, ROOM 301, COMMISSION CHAMBERS, CITY HALL). **NOTE: MONTHLY MEETING DATES & PETITION DEADLINE DATES ARE AVAILABLE ON OUR WEB SITE: WWW.BATTLECREEKMI.GOV**

FOR CITY USE ONLY

Conditions Imposed with Approval:



321 Main Street
Battle Creek, Michigan
49014
(269) 968-4548

Visit us on the web at
www.firstpentecostalcogic.org

First Pentecostal **Church Of God In Christ**

December 26, 2011

City of Battle Creek Planning Commission

Please be advised that Jerome Whitley of Whitley Memorial Funeral Home has permission to request a special use permit for the property at 321 Main Street.

If you have any questions, please don't hesitate to contact me at 269-274-1975.

Yours In His Service,

Elder Elmer Hess

Elder Elmer R. Hess, Sr.
Pastor

To Whom It May Concern:

On January 5, 2012 the Neighborhood Planning Counsel for Post-Franklin met and a presentation was made by Jerome Whitley with the support of Pastor Elmer Hess for a request to turn the church at 321 Main Street into a mortuary.

It was presented to us that Mr. Whitley has been using the church for funeral services for the last 4 years.

The planning counsel after careful consideration and taking a vote made the decision to lend their support to Jerome Whitley for a Special Use Permit to turn the church into a mortuary.

It was agreed that it was a wonderful idea to keep the building operating and that it will go back on the tax rolls for the betterment of the Post-Franklin Neighborhood and Battle Creek.

We are asking that the Planning Commission, Zoning Board of Appeals and City Commission all take this into consideration when considering this issue and that you grant Mr. Jerome Whitley the Special Use Permit that he is asking for.

Sincerely,



John Cash, Vice Chair/Acting Chairman

Cc Jerome Whitley
Pastor Elmer Hess